

### **REMARKS/ARGUMENTS**

The Applicants originally submitted Claims 1-20 in the application. In previous responses, the Applicants amended Claims 1-12 and 14-20, added Claim 21 and canceled Claim 12 without prejudice or disclaimer. In the present response, the Applicants have amended Claims 1 and 15. Support for the amendment can be found, for example, in paragraphs 15 and 20 of the original specification. Claims 1-11 and 13-21 are currently pending in the application.

#### **I. Rejection of Claims 1-20 under 35 U.S.C. §103**

The Examiner rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,772,586 to Heinonen, *et al.* in view of US. Patent Application Publication No. 2005/0239493 to Batkin, *et al.* for Claims 1-13 and 15-20, and further in view of U.S. Patent No. 6,112,103 to Puthuff for Claim 14. The Applicants respectfully disagree in view of the present amendment and the below arguments.

Independent Claims 1 and 15 have been amended to, in general, reflect a mobile telephone having a vital sign sensor fabricated within a chassis thereof wherein the vital sign sensor and a display of the mobile telephone are on different sides of the mobile telephone and the display is configured to visually indicate vital sign information from the vital sign sensor to a user of the mobile telephone when determining the vital sign information. (*See* amended independent Claims .1 and 15.) As such, a user can visually observe the vital sign information during a measurement.

Heinonen does not appear to teach or suggest a display that is configured to visually indicate vital sign information from the vital sign sensor to a mobile telephone user when determining the

vital sign information. The Examiner refers to column 5, lines 54-65, and Figures 1-2 of Heinonen to disclose a display and asserts that Heinonen teaches a patient can “read procedural advice during the act of measurement via the display (12).” The cited section of Heinonen, however, does not appear to teach or suggest reading procedural advice **during** the act of measurement. Instead, the cited section discloses the display may be used for “guiding the patient in carrying out the measurement for example by providing advice via the display 12.” (See column 5, lines 58-62.) Thus, the display may be used to provide guidance for performing a measurement but does not teach that the guidance is provided **during** the act of measurement as asserted by the Examiner. Even assuming *arguendo* that Heinonen discloses the guidance is provided during the act of measurement, the guidance for performing a measurement is not the same as the vital sign information determined by the measurement.

Batkin also fails to cure this deficiency of Heinonen. On the contrary, Batkin is directed to “a device to detect and transmit bio-signals such as ECG while being positioned for use essentially as an ordinary telephone.” (See paragraph 13. See also paragraphs 10 and 12.) Batkin illustrates the position for normal telephonic communications in FIG. 3. Batkin also discloses that the device allows for communication of the bio-data **without** the need for any interruption arising from **repositioning of the device**. (See paragraphs 23 and 31.) As such, the device of Batkin also does not teach or suggest each limitation of amended Claims 1 and 15 which include: a display configured to visually indicate vital sign information from a vital sign sensor to a user of a mobile telephone when determining the vital sign information. The combination of Heinonen and Batkin as applied, therefore, do not teach or suggest each limitation of amended independent Claims 1 and 15.

The combination of Heinonen and Batkin as applied also does not teach or suggest the method of Claim 8 which includes: "providing said vital sign information to said user via a display of said mobile telephone while obtaining said vital sign information." As noted above, Heinonen appears to be silent on providing vital sign information via a display while obtaining the vital sign information. Batkin also fails to cure this deficiency of Heinonen with respect to Claim 8 since Batkin is directed to acquiring vital signs using a device while the device is in position for ordinary communications. (See paragraphs 20-22 and FIG. 3.) The combination of Heinonen and Batkin as applied, therefore, do not teach or suggest each limitation of independent Claim 8.

Furthermore, for Batkin to suggest providing the vital sign information to a user via a display of the mobile telephone while obtaining the vital sign information would render it inoperable for its intended purpose of a device having sensors configured to obtain bio-signals **while the telephone is in the position for normal speaking use.** (See paragraphs 22-23, 31 and FIG. 3.) The Examiner asserts that Batkin discloses other bio sensors may be used for contact through a user's hand such as when held as in the case of reading the display for instant feedback. (See Final Rejection, pages 2-3.) Even so, Batkin discloses that the face-oriented sensors are placed on other body parts such as the chest or opposed hand. (See paragraph 48.) If these sensors were placed on the chest or hands for taking measurements, then providing the vital signs during the measurement via the display would not be possible since the display (if the device of Batkin has one) would be covered by the chest or hand.

As such, the applied combination of Heinonen and Batkin does not provide a *prima facie* case of obviousness of amended independent Claims 1 and 15, Claim 8 and Claims dependent

thereon. Additionally, Puthuff was not even cited by the Examiner to address the independent Claims but to teach the subject matter of dependent Claim 14. (See Final Rejection, page 12.) Thus, the addition of Puthuff to the cited combination of Heinonen and Batkin also fails to provide a *prima facie* case of obviousness of amended independent Claims 1 and 15, Claim 8 and Claims dependent thereon. Accordingly, the Applicants respectfully request the Examiner withdraw the §103(a) rejection of the pending Claims and allow issuance thereof.


## II. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-11 and 13-21.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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